IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Applicant:	§	
Lei Cheng	§	Art Unit: 2112
	§	
Serial No.: 10/082,893	§	Examiner: Kim T. Huynh
	§	
Filed: February 26, 2002	§	Atty Docket: ITL.0700US
	§	P13936
For: Directly Transferring Transmit	§	
Data in an Embedded Adapter	§	Assignee: Intel Corporation
	§	

Mail Stop **Appeal Brief-Patents**
Commissioner for Patents
P.O. Box 1450
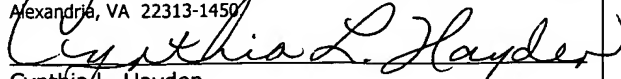Alexandria, VA 22313-1450

REPLY BRIEF

This Reply Brief responds to the new issues raised by the Answer.

1.   Transferring Data from a Host Memory

The Answer champions two new and interesting propositions. Firstly, the Answer propounds a new theory of anticipation. The Examiner suggests that it is good enough for anticipation if two things are "equivalent." Certainly, no such legal proposition exists and there is no justification for such a proposition. *Richardson v. Suzuki Motor Co., Ltd.*, 965 PQ2d 1913 (Fed. Cir. 1989) ("The jury had erroneously been instructed that anticipation may be shown by equivalents, a legal theory that is pertinent to obviousness under Section 103, not to anticipation under Section 102).

The other novel proposition raised in the Answer is that any old peripheral device is somehow the equivalent of an Ethernet device. Certainly, this new proposition would be as surprising to those of skill in the art as the proposition of functional equivalency making out an anticipation rejection would be to those in the patent law field.

Therefore, the rejection should be reversed.

2.   Ethernet Device

Based on the proposition that asserting equivalency between a peripheral device and an Ethernet device makes out an Ethernet device, the Examiner argues that the reference teaches an Ethernet device, despite the fact that he apparently concedes that an Ethernet device is never even mentioned. He does point out that another reference, cited, but not relied on, does teach Ethernet devices. Of course, this is of no relevancy to the anticipation rejection. He cites this article for the astounding proposition that any peripheral device is an Ethernet device. Certainly, such a conclusion is baseless.

To the extent the Examiner is arguing that any peripheral device can be an Ethernet device, it is true that if a device has the characteristics of an Ethernet device, it can be an Ethernet device. But the sole cited reference under the anticipation rejection makes out no Ethernet device.

Plainly, the rejection is baseless and should be reversed.

3.   Processing Data without Sending the Data from the
       Host Memory to the Embedded Memory Associated
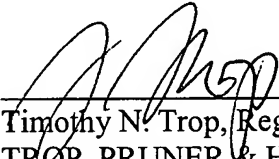   with an Adapter that Includes the Ethernet Device

In response to the appeal brief indication that there is no teaching in the reference of how (if there were an Ethernet device and how, if data were transferred to the Ethernet device), the data could be transferred without transferring it to the internal memory of the Ethernet device. The Answer is somewhat confusing, indicating that it is not claimed "how if data were transferred to the Ethernet device that data could be transferred without transferring it to an internal memory." Even if true, the point of the appeal brief was that there is no teaching in the reference of how the reference could do what is claimed. This goes unrebutted. Namely, the reference does not tell you how you would transfer information to an Ethernet device without using the embedded memory associated with an adapter that includes the Ethernet device.

The point of the argument is that the reference has absolutely nothing to do with the claimed invention because it does not even involve an Ethernet device and it does not tell you how to handle the transfer of data to an adapter with an Ethernet device without using the internal memory of that adapter.

Because the reference has no relevancy to the claimed invention and fails by admission to teach anything that is claimed, the rejection should be reversed.

Respectfully submitted,

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